

AF/TFD



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of)

Jesse A. Branch III)

Filing Date: March 23, 2004)

Application Serial No. 10/805,801)

For: Forked Hammock Support Structure)

Gay Spahn
Examining Attorney
Art Unit 3673

.....
The Honorable Commissioner
for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE

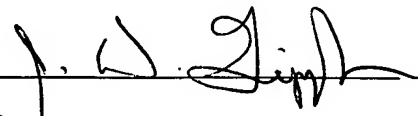
Sir:

Responsive to the Office Action of March 20, 2006, applicant submits herewith an Appeals Brief, which has been redrafted pursuant to the Examiner's suggestions.

If the Brief remains in any way non-compliant with the provision of 37 CFR 41.37, please so advise the undersigned at (703) 448-1770 ext. 302.

Respectfully submitted,

Gipple & Hale

By: 

Name: J. W. Gipple, Esq.

Patent Office No. 18906

Title: Attorney for Applicant

Date: 4/19/06

Attorney Ref. X-9454



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of)

Jesse A. Branch III)

Filing Date: March 23, 2004)

Application Serial No. 10/805,801)

For: Forked Hammock Support Structure)

Gay Spahn
Examining Attorney
Art Unit 3673

.....
The Honorable Commissioner
for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

APPEAL BRIEF

REAL PARTY IN INTEREST

The real party of interest in this appeal is the applicant's assignee Hatteras Hammocks, Inc., a North Carolina corporation having a place of business at 1104 Clark Street, Greenville, North Carolina 27834. The assignment was recorded March 23, 2004 at Reel/Frame 015131/0533.

RELATED APPEALS AND INTERFERENCES

There are no other appeals of interferences known to Applicant, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF THE CLAIMS

Claims 1-5 were cancelled by Applicant's amendment of March 23, 2005. Claims 6-10 were rejected by the Examiner's Final Action dated July 26, 2005.

A Request for Reconsideration filed October 17, 2005 attempted to add claims 11 through 14. The request was not granted by the Examiner in an Advisory Action of November 1, 2005.

STATUS OF THE AMENDMENTS

On October 17, 2005, applicant submitted a proposed amendment, which addressed several formal objections raised by the Examiner and attempted to cancel claims 7 through 10, and add claims 11 through 14. by the Advisory Action of November 1, 2005, the Examiner refused to enter the proposed amendments because:

- (a) They raise new issues that would require further consideration and/or search,
- (b) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (c) They present additional claims without canceling a corresponding number of finally rejected claims.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The subject matter of claims 6-10 is a hammock stand comprised of several tubular members, which are assembled into an arc shaped stand. The stand has a single support hook on one end, and on the other end it has two horizontally spaced support hooks. The arc shaped stand is mounted on two foot supports which extend outwardly from and perpendicularly to the stand, each foot support being attached at its mid point to the bottom of the stand at the joint between the mid section and end section of the stand.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- (1) Whether the invention defined in Claims 6-10 is obvious and therefore unpatentable over the cited prior art reference of Clark (Publ. No. 2004/0244112 or 2005/0015876), in view of Hoffman (Pat. No. 4673211 or 5362130) or Mourot (Pat. No. 2888689).
- (2) Whether the Examiner has improperly refused entry of the proposed amendment with the Request for Reconsideration filed October 17, 2005.

ARGUMENT

- I. Applicant traverses the Examiner's rejection of Claims 6-10 under 35 U.S.C. 103(a) over the cited prior art of Clark, in view of Hoffman or Mourot.

In the Office Action of July 26, 2005, the Examiner asserts

“However, Clark fails to explicitly disclose that at least one of said end sections, being divided, at a point commencing at or near one of said foot supports, to form two

or more prong sections extending upwardly and outwardly from said foot support and means for supporting said hammock attached toward the outer ends of said prong sections.

Any one of Hoffman '211, Hoffman '130 or Mourot disclose chairs or other articles of furniture which have forked or divided end sections, the divisions commencing either at or near a foot support to form two or more prong sections extending upwardly and outwardly from the foot support and means for supporting said hammock attached toward the outer ends of said prong sections."

However, it is clear that the Mourot and Hoffman patents have no foot supports. So, while they may disclose a forked or divided end section, such sections clearly do not commence at or near a foot support. An essential aspect of the present invention is the positioning of the forked end section relative to the foot support. It provides the stability so important in a hammock stand.

II. The Examiner has improperly refused entry of the Amendment after Final on the grounds that the amended claims raise new issues that would require further consideration and/or search.

The Examiner has alleged that claims amended after Final pursuant to the Examiner's specific request raise new issues that would require further consideration and/or search. The proposed claims 11-14, are simply 6-10, amended to address objections raised by the Examiner in the Office Action of July 26, 2005.

III. There was no new matter requiring any additional search or examination and Applicant was simply responding to the suggestions set forth in the Examiner's Final Office Action.

These amendments should have been entered to place the application in better condition for appeal.

SUMMARY OF ARGUMENT

The respective grounds of final rejection of the claims of this application under 35 U.S.C. 103(a) as well as the refusal to enter the Amendment after final are incorrect for the reasons advanced above. Reversal thereof by the Honorable Board of Patent Appeals and Interferences is therefore requested and is earnestly solicited.

Our check in the amount of \$330.00 covering the cost of filing the Appeal Brief accompanied the Brief as originally filed. If any additional fees are required, kindly charge the same to our Deposit Account No. 07-1345.

Respectfully submitted,

Gipple & Hale

By: 

Name: J. W. Gipple, Esq.

Patent Office No. 18906

Title: Attorney for Applicant

Date: 4/19/06

Attorney Ref. X-9454

CLAIMS APPENDIX

1. (Canceled)
2. (Canceled)
3. (Canceled)
4. (Canceled)
5. (Canceled)
6. (Rejected) A hammock support structure comprising:

a plurality of round or tubular sections which can be assembled into an arc shaped stand for supporting a hammock, and foot supports attached to the bottom surface of said stand and extending perpendicularly outward therefrom:

the arc shaped stand being formed of a bottom mid section, and end sections attached to opposite ends of the said bottom mid section and extending upwardly and outwardly therefrom

at least one of said end sections, being divided, at a point commencing at or near one of said foot supports, to form two or more prong sections extending upwardly and outwardly from said foot support

means for supporting said hammock attached toward the outer ends of said prong sections

detachable means to secure said arc shaped stand to said foot supports.
7. (Rejected) The structure of claim 6, wherein the said detachable means to secure are saddling wedges.

8. (Rejected) The structure of claim 7, wherein said bottom mid section and said end sections have at their joints aligned apertures which form a shaft through said stand and which align with corresponding apertures in said saddling wedges and said foot supports.
9. (Rejected) The structure of claim 8, wherein a bolt is inserted into the said shaft extending through the said joint between sections of the stand, and aligned apertures in the saddling wedges and foot supports, and secured with a nut.
10. (Rejected) The structure of claim 9, wherein at least one end of said bottom mid section of end prong sections which extend upwardly and outwardly from said prongs to provide a plurality of support means toward the outer ends of said prong sections.

EVIDENCE APPENDIX

None

RELATED APPEALS AND INTERFERENCES APPENDIX

None



Certificate of Mailing

I hereby certify that this paper is being deposited with the U. S. Postal Service,
First Class, to the Commissioner for Patents

P.O. Box 1430

Alexandria VA 22313-1450

, this 19th day of April, 2006

Date:

4/19/06

Signature:

J. D. Ziff